

A30571-A-PCT-USA-A (070165.0582)

PATENT

DAC IZW A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Bot *et al* Examiner : Waitach, Joseph T
Serial No. : 09/801,540 Group Art Unit: 1632
Filed : March 8, 2001
For : IMMUNIZATION OF INFANTS

**PETITION TO CORRECT PRIORITY DATE PURSUANT TO 37 C.F.R. §
1.78(a)(2)**

I hereby certify that this paper is being deposited with the United States Postal Service via First Class Mail on November 30, 2002 and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

Lisa B. Kole
Attorney Name

Lisa B. Kole

Signature

35,225

Registration No.

December 6, 2004

Date of Signature

Commissioner for Patents
Alexandria VA 22313-1450
BOX PETITION

Sir:

Pursuant to 37 C.F.R. § 1.78(a)(2), applicants herein petition to correct the priority date of this application due to an unintentionally delayed claim for priority under 35 U.S.C. §120. Applicants respectfully request that priority be granted to International Patent Application No. PCT/US97/21687, filed November 27, 1997, and to United States Patent Application No. 08/755,034, filed November 22, 1996, now United States Patent

No. 6,204,250.

505613

This application was filed on March 8, 2001 as a continuation-in-part of U.S. Patent Application Serial No. 09/308,511 of Bot *et al.*, filed May 19, 1999 (“the ‘511 application”). In the transmittal, it was indicated that the specification should be amended to claim priority to the ‘511 application. On the filing date, an unexecuted Combined Declaration and Power of Attorney was also submitted, containing a claim of priority not only to the ‘511 application, but also to United States Patent Application No. 08/755,034, filed November 22, 1996 (“the ‘034 application”), then pending (which was to issue shortly thereafter on March 20, 2001). Reference to the intervening PCT application, PCT/US97/21687, was absent from both documents.

On October 22, 2001, an executed Declaration and Power of Attorney was submitted, again claiming priority to both the ‘511 and ‘034 application. Although a filing receipt was issued March 13, 2002 stating only priority to the ‘511 application, it is believed that Applicants believed (erroneously) that priority had been accorded. This error was reinforced by the Examiner’s statement in the Official Action dated October 8, 2003, that:

This application filed March 8, 2001 is a continuation-in-part of application 09/308,511 filed May 19, 1999, which is a 371 national stage filing of PCT/US97/21687, filed November 21, 1997, which claims priority to application 08/755,034 filed November 22, 1996, now patent 6,204,250.

In the October 8, 2003 Official Action, the Examiner did not question the priority issue, but merely said that “the priority information must be present in the first line of the specification, however this information in the specification as amended is preceded by other information.”

It was only upon receipt of the Official Action dated October 4, 2004 that Attorneys for Applicants realized that a proper claim for priority had not been made. In addition, it was realized, for the first time, that priority to International Patent Application PCT/US97/21687, filed November 27, 1997, had not been claimed in the Combined Declaration and Power of Attorney. When these errors, which were made inadvertently and without deceptive intent, were recognized, this Petition was promptly prepared. The entire delay between the date the claim was due and the date the claim was (properly) filed was unintentional.

Applicants enclose a check for \$1,370.00, which represents the required petition fee forth under 37 C.F.R. § 1.17(t). The Commissioner is hereby authorized to charge payment of fees or to credit any overpayment associated with this communication to Deposit Account No. 02-4377. Two copies of this paper are enclosed.

Applicants are concurrently re-submitting an amendment to the specification that provides the required reference to all applications to which priority is desired to be claimed, namely the '511 application, International Application No. PCT/US97/21687, and the '034 application. Applicants are currently seeking to obtain the signatures of the inventors on a Supplemental Combined Declaration and Power of Attorney claiming priority to PCT/US97/21687.

Applicants respectfully request that this Petition to Correct Priority Date
under 37 C.F.R. §1.78(a)(2) to PCT/US97/21687 and the '034 application be granted.

Respectfully submitted,

BAKER BOTTS, L.L.P.

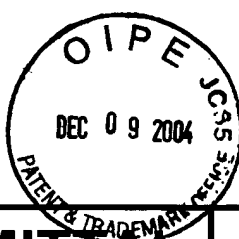
A handwritten signature in black ink, appearing to read 'Lisa B. Kole', written over a horizontal line.

Lisa B. Kole

PTO Reg. No. 35,225

Attorneys for Applicant
(212) 408-2500

BAKER BOTTS LLP



FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$1,370)

Complete if Known

Application Number	09/801,540
Filing Date	March 8, 2001
First Named Inventor	Bot
Examiner Name	Woitach, Joseph T
Art Unit	1632
Attorney Docket No.	A30571-A-PCT-USA-A (07016)

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

 Deposit
Account
Number
Deposit
Account
Name

02-4377

Baker Botts LLP

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee required under 37CFR 1.16 and 1.17

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)				(\$)	0

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	- 20 = 0	X	0
Multiple Dependent	- 3 = 0	X	0

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$0)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
Other fee (specify) Pet. corr. priority dt. 37CFR 1.78(i)					1,370

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$1,370)

SUBMITTED BY

Name (Print/Type)

Lisa B. Kole

Registration No.
(Attorney/Agent)

35,255

(Complete if applicable)

Telephone 212 408 2500

Signature

Date

December 6, 2004